



OFFICE OF THE POLICE COMMISSIONER
ONE POLICE PLAZA • ROOM 1400

July 30, 2013

Memorandum for: Deputy Commissioner, Trials

CHAN

Re: **Sergeant Eric Turetzky**
Tax Registry No. 916825
104 Precinct
Disciplinary Case Nos. 2009-1167 & 2010-2380

The above named member of the service appeared before Assistant Deputy Commissioner David S. Weisel on March 21, 2013 and was charged with the following:

DISCIPLINARY CASE NO. 2009-1167

1. Said Sergeant Eric Turetzky, while assigned to the 100th Precinct, while on duty, and in uniform, on or about May 5, 2009, improperly accepted free merchandise, in violation of Department policy.

P.G. 203-16, Page 1, Paragraphs 1-2

**GUIDELINES FOR ACCEPTANCE OF
GIFTS AND OTHER COMPENSATION
BY MEMBERS OF THE SERVICE**

2. Said Sergeant Eric Turetzky, while assigned to the 100th Precinct, while on duty, and in uniform, on or about May 12, 2009, improperly accepted merchandise at a discounted price in violation of Department policy.

P.G. 203-16, Page 1, Paragraphs 1-2

**GUIDELINES FOR ACCEPTANCE OF
GIFTS AND OTHER COMPENSATION
BY MEMBERS OF THE SERVICE**

3. Said Sergeant Eric Turetzky, while assigned to the 100th Precinct, on or about and between April 3, 2009 and May 2009, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Sergeant behaved inappropriately while on-duty and in uniform at a Dunkin Donuts located at 432 Beach 129th Street in Far Rockaway, New York, to wit: said Sergeant went behind the counter and used the telephone and kissed an employee of the aforementioned Dunkin Donuts.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT – PROHIBITED
CONDUCT**

1. Said Sergeant Eric Turetzky, while assigned to the 104th Precinct and assigned as the Desk Officer, while on duty, on or about December 2, 2009, failed to ensure that a prisoner, Jose Otero, who was lodged in the holding cell, was properly monitored while inside the holding cell.

P.G. 210-08, Page 1, Paragraphs 2-4

**GUIDELINES FOR PRISONER
HOLDING PENS**

2. Said Sergeant Eric Turetzky, while assigned to the 104th Precinct and assigned as the Desk Officer, while on duty, on or about December 2, 2009, failed to ensure that the appropriate entries were made in the Prisoner Holding Pen Roster/Command Log regarding the inspection/monitoring of a prisoner, Jose Otero.

P.G. 210-08, Page 1, Paragraph 4

**GUIDELINES FOR PRISONER
HOLDING PENS**

3. Said Sergeant Eric Turetzky, while assigned to the 104th Precinct and assigned as the Desk Officer, while on duty, on or about December 2, 2009, failed to conduct a proper investigation, to wit: after being informed by Police Officer Juan Gomez that a prisoner, Jose Otero, was an emotionally disturbed person, said Sergeant failed to conduct any type of investigation to determine the prisoner's well-being or the reasons Mr. Otero was deemed an EDP.

P.G. 210-04, Page 1, Paragraph 2

**PRISONERS REQUIRING
MEDICAL/PSYCHIATRIC TREATMENT**

4. Said Sergeant Eric Turetzky, while assigned to the 104th Precinct and assigned as the Desk Officer, while on duty, on or about December 2, 2009, failed to notify the Operations Unit, to wit: after a prisoner, Jose Otero, attempted suicide in the holding cell of the 104th Precinct, said Sergeant failed to notify the Operations Unit regarding the unusual occurrence, as required.

P.G. 212-09, Page 1, Paragraph 3

UNUSUAL OCCURRENCE REPORTS

5. Said Sergeant Eric Turetzky, while assigned to the 104th Precinct, while on duty, on or about January 21, 2010, engaged in conduct prejudicial to the good order efficiency of the Department, to wit said Sergeant impeded an official Department interview in that he denied having any knowledge of Jose Otero's attempted suicide, causing additional investigative steps to be taken.

P.G. 213-10, Page 1, Paragraph 2(d)

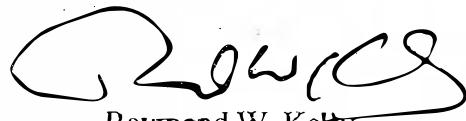
PROHIBITED CONDUCT

DISCIPLINARY CASE NO. 2010-2380

SERGEANT ERIC TURETZKY

In a Memorandum dated June 26, 2013, Assistant Deputy Commissioner David S. Weisel found the Respondent Guilty of Specification Nos. 1, 2 and 3 in Disciplinary Case No. 2009-1167, and Guilty in Part of Specification No. 1, Guilty of Specification No. 2 and Not Guilty of Specification Nos. 3, 4, and 5 in Disciplinary Case No. 2010-2380. Having read the Memorandum and analyzed the facts of this matter, I approve the findings, but disapprove the penalty.

Sergeant Turetzky's various acts of misconduct warrant the forfeiture of thirty-five (35) vacation days and one (1) year dismissal probation, as a disciplinary penalty.



Raymond W. Kelly
Police Commissioner



POLICE DEPARTMENT

June 26, 2013

MEMORANDUM FOR: Police Commissioner

Re: Sergeant Eric Turetzky
Tax Registry No. 916825
104 Precinct
Disciplinary Case Nos. 2009-1167 & 2010-2380

The above-named member of the Department appeared before the Court on March 21, March 22, and April 5, 2013, charged with the following:

Disciplinary Case No. 2009-1167

1. Said Sergeant Eric Turetzky, while assigned to the 100th Precinct, while on duty, and in uniform, on or about May 5, 2009, improperly accepted free merchandise, in violation of Department policy.

P.G. 203-16, Page 1, Paragraphs 1-2 GUIDELINES FOR ACCEPTANCE OF
GIFTS AND OTHER COMPENSATION
BY MEMBERS OF THE SERVICE

2. Said Sergeant Eric Turetzky, while assigned to the 100th Precinct, while on duty, and in uniform, on or about May 12, 2009, improperly accepted merchandise at a discounted price in violation of Department policy.

P.G. 203-16, Page 1, Paragraphs 1-2 – GUIDELINES FOR ACCEPTANCE OF
GIFTS AND OTHER COMPENSATION
BY MEMBERS OF THE SERVICE

3. Said Sergeant Eric Turetzky, while assigned to the 100th Precinct, on or about and between April 3, 2009 and May 2009, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Sergeant behaved inappropriately while on-duty and in uniform at a Dunkin Donuts located at 432 Beach 129th Street in Far Rockaway, New York, to wit: said Sergeant went behind the counter and used the telephone and kissed an employee of the aforementioned Dunkin Donuts.

P.G. 203-10, Page 1, Paragraphs 5 – PUBLIC CONTACT
PROHIBITED CONDUCT

Disciplinary Case No. 2010-2380

1. Said Sergeant Eric Turetzky, while assigned to the 104th Precinct and assigned as the Desk Officer, while on-duty, on or about December 2, 2009, failed to ensure that a prisoner, Person A, who was lodged in the holding cell, was properly monitored while inside the holding cell.

P.G. 210-08, Page 1, Paragraphs 2-4 – GUIDELINES FOR PRISONER HOLDING PENS

2. Said Sergeant Eric Turetzky, while assigned to the 104th Precinct and assigned as the Desk Officer, while on-duty, on or about December 2, 2009, failed to ensure that the appropriate entries were made in the Prisoner Holding Pen Roster/Command Log regarding the inspection/monitoring of a prisoner, Person A.

P.G. 210-08, Page 1, Paragraph 4 – GUIDELINES FOR PRISONER HOLDING PENS

3. Said Sergeant Eric Turetzky, while assigned to the 104th Precinct and assigned as the Desk Officer, while on-duty, on or about December 2, 2009, failed conduct a proper investigation, to wit: after being informed by Police Officer Juan Gomez that a prisoner, Person A was an emotionally disturbed person, said Sergeant failed to conduct any type of investigation to determine the prisoner's well-being or the reasons Person A was deemed an EDP.

PG 210-04 Page 1, Paragraph 2 – PRISONERS REQUIRING MEDICAL/ PSYCHIATRIC TREATMENT

4. Said Sergeant Eric Turetzky, while assigned to the 104th Precinct as the Desk Officer, while on-duty, on or about December 2, 2009, failed to notify the Operations Unit, to wit: after a prisoner, Person A, attempted suicide in the holding cell of the 104th Precinct, said Sergeant failed to notify the Operations Unit regarding the unusual occurrence, as required.

PG 212-09 Page 1, Paragraph 3 – UNUSUAL OCCURRENCE REPORTS

5. Said Sergeant Eric Turetzky, while assigned to the 104th Precinct, while on-duty, on or about January 21, 2010, engaged in conduct prejudicial to the good order efficiency of the Department, to wit said Sergeant impeded an official Department interview in that he denied having any knowledge of Person A's attempted suicide, causing additional investigative steps to be taken.

PG 213-10 Page 1, Paragraph 2(d) – PROHIBITED CONDUCT

The Department was represented by Rudolph Behrmann, Esq., Department Advocate's Office. Respondent was represented by Bruce Wenger, Esq., Wenger & Arlia LLP.

Respondent, through his counsel, entered a plea of Guilty to the specifications in Case No. 2009-1167. He pleaded Not Guilty to the specifications in Case No. 2010-2380. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

In Case No. 2009-1167, having pleaded Guilty, Respondent is found Guilty. In Case No. 2010-2380, Respondent is found Guilty of Specification No. 2, Guilty in Part of Specification No. 1, and Not Guilty of Specification Nos. 3-5.

SUMMARY OF EVIDENCE PRESENTED

The Department's Case

The Department called Sergeant Harjit Singh, Police Officer Joseph Simone, Police Officer Eric Mendoza, Police Officer Juan Gomez, Lieutenant Brian Higgins and Sergeant Floros Efstratiou as witnesses.

Sergeant Harjit Singh

Singh, a 12-year member of the Department, was assigned to the 104 Precinct as an anticrime supervisor. He was promoted to sergeant on November 24, 2009.

On December 2, 2009, Singh had not been permanently assigned yet to the 104 Precinct. Singh officially was assigned to the sergeants training course. He was on his third day of training. He was assigned to “orientation” at the 104 Precinct.

Singh was assigned to the desk, but was “being supervised by the experienced sergeant as a desk officer in order to learn command log entries and other administrative stuff” that was a desk officer’s responsibility. He asserted that he still was “in training” and was a “sergeant in training.” On direct examination, Singh indicated that he was “acting as desk officer.” Respondent was “basically” Singh’s “mentor” and was acting as an “additional desk officer.” On cross examination, Singh testified that he was assigned as the desk officer and Respondent was assigned as “assistant desk officer.”

Singh testified that he was making entries and Respondent was helping him. While Respondent was “in and out,” Police Officer Jose Gomez and Sergeant Edward Reiman brought a prisoner, Person A, to the desk. It was Singh’s responsibility as desk officer to count the prisoner’s personal property, and remove the prisoner’s shoelaces, belts, and any type of string. Gomez was the arresting officer. After the arresting officer completed the prisoner pedigree card, the desk officer will direct him to lodge the prisoner in the holding cell. Singh filled out Person A’s information in the command log.

Singh asserted that he “realized” Gomez was not watching Person A. Singh went to the cell area and observed that the prisoner had tied some string to two of the metal bars. He had part of the string around his neck. It appeared to Singh that Person A was attempting to commit suicide.

Singh began yelling for help and Gomez responded. Singh obtained the cell key and opened the door. He held Person A’s head in order to prevent injury or any other action by the

prisoner. Gomez held Person A's feet, and other officers assisted in cutting Person A down. Person A was handcuffed and placed on the bench.

During this incident, there was a lot of commotion, where many officers came to the cell area. Singh was upset, and was screaming and yelling as a result of Person A attempting to hang himself. Gomez protested to Singh, "Sarge, I'm not the fuck-up."

Singh could not find Respondent. Singh saw Reiman and told him, "The fucking guy could have been dead because of your guy," i.e., Reiman's subordinate, the arresting officer: Gomez. Reiman replied to Singh that he was a new sergeant and was on probationary status. Reiman warned that if Singh notified the Internal Affairs Bureau (IAB), he would be charged with failure to supervise and could get demoted.

Singh was angry and upset. He was thinking about "my reputation, my rank," and his mind was "not working properly at the time." Singh and Reiman saw Respondent sitting at the desk and Reiman gestured for him to come over to the muster room. Gomez came to the room as well.

When Respondent came over, he asked Gomez, "Did he hurt?" Singh understood that to mean that "everybody" was aware that something went wrong with the prisoner. In the muster room, Respondent told Gomez, Reiman and Singh to designate Person A as an emotionally disturbed person (EDP) who was having "suicidal thoughts." After "it was decided" that Person A would be classified as an EDP, Emergency Medical Service (EMS) was called and an ambulance transported Person A to the hospital. Gomez and the escorting officer filled out the prisoner medical treatment form.

Based on his "common sense," Singh believed that Respondent knew about the suicide attempt.

Singh admitted that he did not make any notifications to any oversight divisions of the Department because he was worried about losing his rank.

Singh was interviewed by the Queens North Investigations Unit regarding this incident. At his first official Department interview, Singh denied that anything happened, and only said that Person A was an EDP who had suicidal thoughts. Singh denied knowledge of the attempted suicide, again because he was on probationary status and feared losing his rank. At his second interview, Singh told investigators the account he rendered at trial.

On cross examination, Singh testified that he thought Respondent was present to give guidance. Singh admitted that Respondent was not behind the desk the whole time. Singh was not aware if Respondent also was assigned to do communications that day. Respondent was walking around the other offices that were located near the desk. Singh did not ask Respondent for assistance with regard to his desk duties that day, and did all of the entries on his own. He was not aware if Respondent made any entries. Singh did not ask Respondent to review his entries.

Singh conceded that on December 2, 2009, he never told Respondent that Person A attempted suicide. Nor did Singh hear anyone else tell Respondent about this.

Singh did not remember if Respondent went to the cell area after Person A's suicide attempt. Respondent was in the vicinity of the desk, but Singh did not know specifically where he was. Respondent could have been in one of the other offices. Singh did not seek Respondent's help immediately after Person A was cut down.

As Singh left the cell area, he saw approximately eight to ten officers by the wall, including some of the officers who just assisted him. He instructed them to "go 98," i.e., the

radio code signal 10-98, "resume patrol," i.e., to go back to their normal activity. Singh observed Reiman in the muster room area and sought help from him

Respondent was not present when Singh and Reiman had their initial muster room conversation. Singh did not know where Respondent was at this time. Reiman told Singh that because he failed to supervise, he was going to suffer an automatic demotion. Singh turned around and saw Respondent sitting directly behind the desk. Reiman gestured to Respondent to come into the muster room.

When Respondent entered the muster room, neither Singh, Reiman nor Gomez informed him that a prisoner had attempted to commit suicide. In fact, when Respondent walked into the room, there was no conversation that was going on between Reiman, Gomez and Singh. Singh did not know whether Respondent knew about Person A's suicide attempt.

Singh testified that Respondent brought up the wording "suicidal thoughts." Singh was asked if he stated during the "May 12, 2010" official interview,¹ "Gomez said the perp . . . is having a suicidal thought so Turetzky asked, 'is this guy hurt?' No. So at that point call call an EDP, so he . . . [ellipsis in transcript]." Singh answered, "So my answer is not stating that. My answer is actually stating that when first . . . Sergeant Turetzky came to the muster room, did he hurt? But then whatever the response back to from Officer Gomez that would be in that answer . . . in that hearing." Singh did not recall what Gomez told Respondent.

Singh did not seek guidance from Respondent about how to handle the situation.

On re-direct examination, Singh clarified that, in the beginning of his tour, he asked Respondent's guidance as to his general responsibilities at the desk. Singh went to Reiman for

¹ The lead investigator, Efstratiou, indicated in his testimony that Singh's "false" official interview took place in January 2010 and the "true" one occurred in May 2010.

guidance about the Person A incident because he was the first person that he saw after the incident, and he had worked with Reiman the day before.

When Singh went to the cell area, Respondent was not present behind the desk. The computer room was near the desk area.

On re-cross examination, Singh testified that he arrived at work at 0655 hours, before Respondent, on the day in question. When Respondent arrived, about 25 minutes later, he assisted Singh in preparing the roll call. Person A was brought into the precinct at 1130 hours (see Department's Exhibit [DX] 1, Command Log & Prisoner Holding Pen Roster). Singh, recognizing his own handwriting, confirmed that he stamped Person A into the command log. Singh did not know Respondent's whereabouts when Person A was brought into the precinct. Singh did not see Respondent from the time Respondent assisted him with the roll call until Person A's attempted suicide.

Singh offered that he was sure Respondent knew about the suicide attempt because there were so many other officers present and because of the commotion. Singh admitted that he did not know if Respondent was behind the desk at the time of the incident.

Upon examination by the Court, Singh testified that he did not see Respondent for approximately three hours before the incident.

About five minutes elapsed between the time that Singh noticed the commotion to the time he was in the muster room. Reiman and Singh were standing in the front of the muster room. Gomez joined them in that room as well. They were all standing there and talked for less than a minute before Reiman waved over Respondent.

Singh pleaded Guilty to four specifications: failure to supervise, failure to notify IAB, failure to make a notification to the Operations Unit, and impeding an investigation. He agreed

to a penalty of the forfeiture of 35 vacation days. The Police Commissioner approved the disposition on May 15, 2013 (see *Case No. 2010-2382*).

Police Officer Joseph Simone

Simone, a 19-and-a-half year member of the Department, was assigned to the 104 Precinct. On December 2, 2009, while Simone was in the open area by the desk, he heard a commotion and Singh yelling from the cell area. Respondent was not at the desk area.

Simone was about twenty feet away from the cells. He went over and saw a prisoner with a string around his neck. Simone left to retrieve a knife and then returned to cut him down. Singh and Gomez were present in the cell area trying to get the prisoner down. After Simone cut down the prisoner, he left the cell area. Respondent was not in the cell area during or immediately after the incident.

On cross examination, Simone testified that Police Officer Eric Mendoza handed him the knife. Simone never told Respondent that a prisoner attempted to commit suicide.

On re-direct examination, Simone testified that he did not overhear any conversation regarding a prisoner trying to commit suicide.

Police Officer Eric Mendoza

Mendoza was assigned to the 104 Precinct. On December 2, 2009, Mendoza was standing near the muster room and saw Singh rush over to the cells from the desk area. From the cells, Simone asked Mendoza for a knife. Mendoza went to the cells and handed Simone a small pocketknife. Gomez was by the cells as well.

Mendoza did not get an opportunity to see Simone's face, as Simone was facing the cells. It appeared that Simone was using the knife to cut a string or noose. Mendoza could not see the person who was in the cells. Mendoza got his knife back and Singh told everyone to resume patrol. The incident took a couple of minutes.

Mendoza did not see any other supervisors besides Singh in the cell area. Reiman was at the desk.

On cross examination, Mendoza testified that there was not a lot of noise in the station house when the attempted suicide occurred. Because Singh left the desk and went to the cells, "pretty much" people knew that something was happening. There was no commotion. Mendoza did not see Respondent at that time. Mendoza did not tell Respondent about the suicide attempt nor did he hear anyone else tell Respondent.

Upon examination by the Court, Mendoza testified that he was at the station house because he was taking meal.

Mendoza did not know at the time of the request why Simone wanted a knife. It became clear as Mendoza approached Simone in the cell area.

Police Officer Juan Gomez

Gomez was assigned to the 104 Precinct. On December 2, 2009, Gomez arrested Person A. Gomez brought Person A into the cell and left him there while he worked on the arrest paperwork.

Gomez testified that Singh came over to him in an "excited" tone and told him that he had to check on his prisoner. They went over to the cell and saw Person A hanging from inside the cell. They entered the cell and Gomez picked up Person A's legs. Simone and Mendoza came to assist, and they brought a knife and cut Person A down. Gomez sat Otero down on the bench and

asked him if he was okay and why he did that. Person A said that he was okay. Gomez closed the cell door and sat with Person A.

Gomez called for an ambulance. After Person A got picked up by the ambulance, Gomez filled out a prisoner treatment form. On that form, Gomez filled out that Person A was going to the hospital because he had "suicide tendencies or thoughts," even though the actual reason was that he had attempted to commit suicide.

Gomez did not know where Respondent was during the incident and did not speak to him regarding Person A's condition. He did not speak to Respondent in either the desk or muster room areas. Gomez did not see Respondent in the vicinity of the cells or the muster room following the incident. Gomez could not recall if he saw Respondent at any time following the incident. Gomez did not receive any instruction on how to fill out the prisoner treatment form.

On cross examination, Gomez testified that he did not see Respondent at the desk immediately prior to Person A attempting to commit suicide. Gomez was not sure who was present when he lodged the prisoner at the desk upon entering the station house.

Gomez did not hear anyone else tell Respondent that a prisoner attempted to commit suicide. Respondent never was by the cell area. Gomez never was in the muster room with Reiman and Singh. Gomez did not approach Respondent and ask him to go into the muster room.

The phrase "suicidal thoughts" did not come from Respondent. Gomez never spoke to Reiman about Person A's suicide attempt, even though Reiman was his immediate supervisor.

Singh, Mendoza and Simone knew about the suicide attempt, as they assisted in rescuing Person A. The only conversation between Singh and Gomez was when Gomez told Singh, "I'm

not

a fuck-up.” This was a reference to Gomez’s belief that he had searched Person A properly and did not know where he got the string to hang himself.

Upon examination by the Court, Gomez testified that he made the “fuck-up” remark in the cell area while waiting for EMS. It was unprompted by any other remark; Gomez said it because he “felt bad about what had happened.” Gomez wrote on the prisoner treatment form that Person A had suicidal thoughts, instead of writing that he attempted suicide, because he was “very nervous.” It was a “bad mistake” on his part. Gomez pleaded Guilty to charges and specifications, which included failure to properly complete the form and failure to watch the prisoner. Gomez received a penalty of the forfeiture of 25 vacation days (see *Case No. 2010-2532* (Oct. 1, 2012)).

Lieutenant Brian Higgins

Higgins, a 19-and-a-half-year member of the Department, currently was assigned to the School Safety Investigations Unit. He previously was assigned to the 104 Precinct. On December 2, 2009, he was assigned as platoon commander. As platoon commander, Higgins oversaw the roll call. Higgins would review the roll call, sign it at the bottom, and if any changes were made to it, he was supposed to be made aware of them by the desk officer (see DX 2, desk copy of Dec. 2, 2009, roll call, with roll call adjustment, or change sheet).

On the day in question, Respondent was listed as “D/O,” i.e., desk officer, on the roll call. The desk officer was responsible for everything that happened within the precinct house, including the roll call and the well-being of the prisoners. Higgins was not made aware of any changes for the desk officer position that day. DX 2, however, indicated in Respondent’s

handwriting that Respondent's assignment was changed from desk officer to "A/D/O," assistant desk officer.

Singh was assigned on the roll call to "Orient" – orientation. Orientation consisted of being "tutored" or "scholared by experienced sergeants for the day." Singh had been assigned temporarily to the 104 Precinct for training. He was supposed to familiarize himself with the command, return to training, and then get permanently assigned to the command. Higgins instructed Singh to be tutored at the desk area and that he would be the assistant desk officer. DX 2, however, showed a handwritten change making Singh "D/O."

Higgins testified that any authorized roll call changes would be indicated on the change sheet, which was attached to the roll call. Higgins did not authorize Respondent's handwritten changes as Singh was on orientation and had very little experience, "if any," while Respondent was a regular, experienced sergeant of the 104 Precinct. Higgins was not aware that these changes had been made on that date until later.

On December 3, 2009, IAB "was calling" about a "prisoner incident." Higgins learned that an ambulance had been called for a prisoner who was deemed to be an EDP at the precinct on December 2, 2009. At a later date, Higgins learned that the prisoner had attempted suicide but members of the command had "quelled" the incident.

On cross examination, Higgins testified that his practice was not to sign off on roll call changes. The desk officer made the changes and signed it in the back on the change sheet. Higgins did not sign off on the change sheet. Higgins would only sign off before the changes were made. Higgins admitted, however, that this was not the proper practice according to the Patrol Guide. He was supposed to sign off on the roll call before any changes were made. Higgins agreed that he was ultimately responsible for reviewing the roll call.

The roll call that Higgins signed at the beginning of the tour could be altered during the course of the day. The change sheet attached to the back connoted any changes made to the roll call. Changes were to be made by hand.

It was Higgins's practice to go on patrol with a scratch copy of the roll call. Higgins could not recall if he had the scratch copy on the day in question, but he knew that the handwritten changes were not on the roll call when he signed it. Higgins would be made aware of changes later in the day.

Once Higgins found out that IAB was investigating the prisoner incident, he did not review the roll call from that day. Higgins testified that it was not his job to do so. Higgins did not confront Respondent as to why he was listed as assistant desk officer instead of desk officer.

Respondent had been in the command for about three months on December 2, 2009. Higgins did not have concerns about Respondent's patrol functions. Higgins was aware that there had been previous disciplinary actions taken against him.

Higgins admitted that many changes made on the DX 2 roll call were not documented on the change sheet.

Higgins was not aware if Lieutenant Lauren Zunno, the operations coordinator, or administrative lieutenant ("admin"), told Respondent to do communications that day. The admin was in charge of communications and would have been authorized to give that responsibility to Respondent.

As Higgins was leaving the command, Simone informed him that there was an EDP prisoner. Higgins accepted Simone's representation and did not ask Singh or Respondent about it. Higgins did not learn about the actual prisoner suicide attempt until January 2010.

On re-direct examination, Higgins stated that communications could be done on the computer located at the main desk of the station house. There was no specific area in the command that was devoted solely to communications. The desk officer must remain at the desk as he was responsible for all command functions. He could leave if necessary but had to note this in the command log.

None of Respondent's handwritten changes to the roll call were indicated on the change sheet.

On re-cross examination, Higgins saw that there were various changes to the roll call sheet in handwriting other than Respondent's. Those additional changes also were not authorized by Higgins.

Sergeant Floros Efstratiou

Efstratiou was assigned to the Queens North Investigations Unit. On December 3, 2009, a report was made to IAB that a male had attempted suicide in the holding cell of the 104 Precinct. A team of supervisors responded to the precinct and gathered documents, including the command log and prisoner roster.

Efstratiou testified that on December 2, 2009, Gomez, under the supervision of Reiman, responded to a domestic violence incident involving Person A. Person A was in violation of an order of protection by entering a residence to remove his personal items and clothing. Gomez and Reiman arrested Person A and transported him to the station house. Gomez was responsible for processing Person A.

Efstratiou asserted that both Singh and Respondent were assigned as desk officers that day. He then testified that Respondent was the desk officer even though the roll call listed him

as assistant desk officer. Singh was listed as the desk officer but he still was in training. But on cross examination, Efstratiou said that Singh was assigned as desk officer and Respondent as assistant.

Singh was under the "direct supervision" of Respondent, as the former had been a supervisor for a total of three days. Efstratiou first testified that Singh still was in the sergeants training course and had to complete one more week of training on how to be a patrol supervisor and desk officer. Later, Efstratiou said that Singh was "promoted out of" the course but still had five days of training left, to be performed in the 104 Precinct. All entries made by Singh were under Respondent's direct supervision.

Person A found a string underneath a bench in the cell. He made a noose out of it, tying one end of the string to the cell, and put the string around his neck in an attempt to hang himself.

As Singh was walking over to the cell area, he observed Person A attempting to hang himself. Singh ran over to the cells and yelled to Gomez that his prisoner was trying to kill himself. The officers entered the cell. Gomez lifted Person A up from his legs and Singh attempted to untie the string from the cell, but could not, so he yelled for a knife. Simone ran over and attempted to assist them in untying the string. They all continued to yell for help and that they needed a knife. Mendoza and another officer ran over to them with a knife. Person A was cut down.

Efstratiou determined that Reiman and Respondent were at the incident location at some point after the incident. Efstratiou interviewed Respondent. Respondent said that he was in the computer room, next to the desk, when Reiman and Singh motioned for him to come over to talk about something. Gomez approached Respondent and told him that he needed to call an ambulance because a prisoner had suicidal tendencies and requested permission to do so.

Respondent told Efstratiou that he then asked what the extent of his injuries was. Efstratiou asked him what he meant by "injuries," because he had just stated "thoughts" or "tendencies," at which point Respondent became very uncomfortable and told Efstratiou that he always asked that question.

Efstratiou interviewed Singh twice. In the first interview, Singh told him that nothing happened, that a prisoner had suicidal thoughts and was sent to the hospital.

Efstratiou interviewed Gomez, however, who told him that the prisoner attempted to hang himself with a string he found in the cells. Singh helped Gomez cut the prisoner down.

After speaking to Gomez, Efstratiou reviewed the Department documents, including the roll call, command log, and prisoner roster. The prisoners were entered out of order in the roster. Person A was not listed in the order that he came into the station house. On the roster, Person A was entered into as entry number 7, at 1135 hours. But entry number 6 listed a prisoner as arriving at 1400 hours. All of the command log and prisoner roster entries were made by Singh, under the direction of Respondent.

Efstratiou also interviewed Zunno, Higgins, Simone, and three other officers. From his investigation, Efstratiou determined that Person A attempted to commit suicide. After making this determination, Efstratiou re-interviewed Singh, Reiman and Respondent.

Based on the discrepancies between Respondent's first and second interviews, Efstratiou determined that Respondent was not being forthright. In the second interview, Respondent said that he was waved over to the muster room, directly opposite the desk, where Reiman, Singh and Gomez were present. There, Gomez told Respondent that the prisoner had suicidal thoughts.

On cross examination, Efstratiou confirmed that the role of assistant desk officer was not in the Patrol Guide. There were no formal guidelines for that position. Efstratiou did not know

if Respondent was present when Singh filled out the command log, despite being under Respondent's "direct supervision." Efstratiou was not aware if the operations coordinator told Respondent to do communications on the day in question.

Efstratiou deduced that Respondent knew about Person A's suicide attempt based on Respondent wanting to know the extent of the prisoner's injuries.

Efstratiou testified that Mendoza informed him that there was a commotion by the cells that caused him to run into that area. Upon confrontation with the transcript of the official Department interview, however, Efstratiou admitted that Mendoza said, "No noise or anything else like that but another officer asked for a knife." Singh ran over to the cell area as well from behind the desk.

Efstratiou testified that, although he used the word "commotion" in his report, he meant a "disturbance," which did not necessarily mean it was accompanied by noise. Efstratiou acknowledged that the "commotion" could have happened very quickly.

At the time Person A was attempting to commit suicide, Respondent was in the computer room, adjacent to the desk. Singh did not ask Respondent to cover the desk for him while he helped rescue Person A.

Efstratiou testified that when a sergeant was promoted, there was a six-month period of probation.

On re-direct examination, Efstratiou testified that Respondent was the senior officer at the desk on December 2, 2009. As a desk officer in training, Singh needed a senior supervisor to verify that he was doing everything correctly at the desk. Although Singh made the entries, Respondent should have been checking them.

On re-cross examination, Efstratiou admitted that Singh was a “permanent sergeant” in the 104 Precinct on December 2, 2009.

Upon examination by the Court, Efstratiou testified that once an officer was promoted to sergeant, he was assigned a command, and went there for five days for field training. His belief that a sergeant in training was under the supervision of a senior officer was based on his own experience in the type of scenario faced by Singh and Respondent. This was in April 1999.

Respondent’s Case

Respondent called Sergeant Edward Reiman as a witness and testified on his own behalf.

Sergeant Edward Reiman

Reiman was assigned to the 104 Precinct. On December 2, 2009, Reiman and Gomez were working in the domestic violence unit. Reiman assisted Gomez in arresting Person A and they transported him to the station house. Reiman was not certain but believed that Singh was at the desk when they brought Person A into the command. Reiman could not remember if Respondent was at the desk.

Gomez filled out Person A’s arrest pedigree, searched him, and brought him back to the arrest processing room, which was in the cell area. Reiman went downstairs to the domestic violence office to perform administrative tasks.

Reiman testified that Gomez approached him and said that Person A was EDP. Gomez did not tell Reiman that Person A attempted to commit suicide. Gomez never said that he told other supervisors about a suicide attempt and Reiman did not know that Person A had tried to commit suicide.

After Gomez told him about Person A and that he called an ambulance, Reiman saw Singh in the muster room. Reiman told Singh that it was imperative to remove an EDP to the hospital right away and that it was Singh's "responsibility to make sure that everything takes place before there's any problems." Singh did not tell Reiman that Gomez "fucked up and it was going to cause a problem." Nor did Reiman tell Singh that he was going to be demoted for failing to supervise Gomez. Reiman did not know where Respondent was. Gomez was in the cell area; Reiman made sure he spoke to Singh out of Gomez's presence so as not to embarrass Gomez.

Reiman believed that he might have called Respondent into the muster room. Reiman wanted him to know that there was an EDP prisoner. Reiman informed him that Gomez's prisoner was EDP and had to go to the hospital. An ambulance arrived and transported Person A.

Reiman found out that Person A had tried to commit suicide on December 3, 2009, when IAB called the precinct looking for information.

Reiman admitted that charges and specifications were brought against him. These included failure to supervise, failure to notify the Operations Unit that a prisoner tried to kill himself, and denying knowledge of any incident, causing further investigatory steps to be taken.

On cross examination, Reiman stated that he did not get further details from Gomez as to what he meant that Person A was an EDP, as Gomez was an experienced officer and Reiman trusted him.

Reiman testified that Singh did not inform him that Person A had attempted to hang himself. Reiman did not inquire of Singh how Person A was an EDP.

Singh was a newly-promoted sergeant, but Reiman was not aware of how many days he had been at the 104 Precinct. Respondent and Singh were assigned at the desk. Respondent and

Singh were the same rank so Respondent was not necessarily supervising Singh, but rather could have been “guidance training” him.

Respondent came to the muster room from the desk area. Respondent asked Gomez if the prisoner had hurt himself. At that point, Reiman had not thought that Person A hurt himself in any way.

Reiman went to the cell area and observed that Person A had a blank stare on his face. Reiman did not ask Person A any questions and had no reason to believe that Person A was injured.

Reiman indicated that he pleaded Guilty to the charges against him. The charges did not include a denial that an attempted suicide took place. Rather, he denied knowledge that an incident took place, causing further investigatory steps to be taken. Reiman denied that the charges mentioned false or misleading statements. He was aware of the suicide attempt before both of his official Department interviews. Reiman received a penalty of the forfeiture of 35 vacation days and placement on one year of dismissal probation (see *Case No. 2010-2381* [Oct. 1, 2012], charging failure to supervise, failure to notify, and “imped[ing] an official Department investigation in that he denied having any knowledge of Person A’s attempted suicide, causing additional investigative steps to be taken”).

Respondent

Respondent, an 18-year member of the Department, was promoted to sergeant in January 2001. He was assigned to the 104 Precinct.

On December 2, 2009, Respondent originally was listed on the roll call as the desk officer and Singh was listed as “orientation.” Respondent was coming in late that day, and Zunno, the operations coordinator, knew this. When Respondent arrived, she told him that he

would be the assistant desk officer and should concentrate on communications. Communications were when a citizen made a complaint regarding police response. The Department member doing communications was responsible for interviewing the complainants and writing a response.

Zunno stated that Singh would be the desk officer. Singh was present when she told Respondent to do communications.

Singh, also a sergeant, was assigned to the precinct three days earlier. Because they both were sergeants and were on "equal footing," Respondent was not supervising Singh. Respondent was, however, responsible for assisting Singh if he had any questions and Singh asked several throughout the day. Respondent made the changes to the roll call as seen in DX 2 with Singh present and showed Singh how to make those changes.

The procedure for roll call adjustment was that the changes were given to the patrol supervisor, platoon commander and commanding officer. Higgins, as platoon commander, should have known what changes were made to the roll call and was supposed to sign off on them after they were made. Respondent could not recall if Higgins did so.

On the day in question, Respondent mostly was located in the computer room adjoining the desk, or in the next room, the 124 Room (where in-person complaints from the public were taken) (see DX 3, diagram of first floor of 104 Precinct). Respondent was making telephone calls and typing up the communications.

Respondent was aware of Person A when he was brought into the precinct. Respondent stepped out of the adjoining room and observed Person A being brought in. Reiman came behind the desk and stamped Person A in with Singh present, so Respondent went back to communications.

While doing communications, Respondent was in the adjoining room with the door partially open. Respondent observed that Singh was not at the desk. Respondent stepped out to the desk when Gomez approached him and told him that a prisoner was EDP. Respondent asked, "Is the prisoner a psychological problem, or is it an injury problem?" Respondent always asked that question in EDP situations because "if I'm calling an ambulance . . . I have to know if it's just an EDP yelling and screaming or if there's blood involved and I have to put a rush on the bus."

Reiman and Singh motioned to Respondent to come over to the muster room, which Respondent did. Reiman and Singh were discussing the prisoner. When asked, "And what did you overhear with regard to that conversation?", Respondent answered, "I didn't really overhear anything."

Respondent did not learn from Reiman, Singh or anyone else that a prisoner attempted to commit suicide. Respondent never went to the cell area. Respondent did not learn about the suicide attempt until several weeks later. Had Respondent found out that a suicide attempt had taken place at the precinct, he would have notified his commanding officer, the Operations Unit, IAB – all of the proper channels. In the past, Respondent had made such notifications. When he was working at the 100 Precinct, a female prisoner had tried to hang herself with her bra, an item that could not be confiscated. Respondent claimed that he had no reason not to notify IAB as to a suicide attempt on December 2, 2009.

On cross examination, Respondent admitted that during his first official Department interview, he answered affirmatively when asked by Efstratiou, "You're the desk officer" and "Are you responsible for anything that goes on in that station house?." He had stated earlier in

that interview that he was the assistant desk officer. Respondent protested that he "was answering a question as asked during a loud interrogation."

Respondent admitted that he did not place his handwritten roll call changes on the change sheet. Respondent reviewed some of the command log entries but not the prisoner roster.

Respondent did not check on Person A while he was lodged in the cell. He believed that Singh was checking on the prisoners through the camera at the desk.

Respondent did not stay on the desk during the tour. If he had, he would have seen everyone running towards the cells. The rooms next to the desk had doors, but some doors needed assistance to stay open. The door between the 124 Room and the waiting area was a Dutch door, with the top half open and the bottom half usually closed.

Respondent did not hear anything unusual taking place before the incident. He did not hear anyone ask for a knife or run over to the cells. He was not aware of any "commotion" taking place at the cells.

Reiman motioned Respondent into the muster room at the same time that Gomez informed Respondent at the desk that a prisoner was an EDP. Respondent believed that the prisoner was an EDP because of suicidal thoughts or tendencies. Both Reiman and Singh told Respondent that the prisoner was an EDP. An ambulance was being called and a police officer was guarding the prisoner. Thus, Respondent did not need to ascertain exactly what the issue was with the EDP.

Respondent did not recall if he asked Gomez the injuries question at the desk or in the muster room.

On re-direct examination, Respondent claimed that he did not admit during the first interview that he was the desk officer. Instead, "During a heated interrogation, we omitted the word 'assistant.'"

Respondent testified that he gave a copy of the roll call with the handwritten changes to Higgins.

Upon examination by the Court, Respondent confirmed that he took lost time before the tour started that day and arrived at 0720 hours. Respondent signed into the command log as present for duty. He did not sign in as desk officer upon taking the desk. Singh should have done so (see Court Exhibit 1, two pages of command log prior to that produced in DX 1, showing that Singh signed in present for duty but not as desk officer).

FINDINGS AND ANALYSIS

Case No. 2009-1167

Having pleaded Guilty to the specifications in this case, Respondent is found Guilty.

Case No. 2010-2380

A. Introduction

On December 2, 2009, both Respondent and Sergeant Harjit Singh were assigned to the second platoon at the 104 Precinct. Singh was a newly-promoted sergeant and was participating in the sergeants training course. He was assigned, as a sergeant, to the 104 Precinct. On the printed copy of the roll call prepared prior to the tour, Singh was listed as "Orientation" and Respondent as the desk officer.

All parties agreed that Singh was there to learn on his feet, as it were, how to perform the duties of desk officer. How exactly this was to take place varied along a spectrum. Efstratiou, the lead investigator, testified that Singh was under Respondent's "direct supervision." Singh said that Respondent was "mentoring" him; Higgins, the platoon commander, used the term "tutoring." Respondent asserted, however, that he was instructed by the administrative lieutenant to assign himself as "assistant desk officer" and Singh as desk officer. That way, Respondent could work on communications, Singh could gain on-the-job experience, and Respondent could assist him as necessary.² Respondent denied that he was there to supervise Singh, as both were of the same rank.

At 1130 hours, an arrestee, Person A, was brought into the station house by the domestic violence unit. Police Officer Juan Gomez was the arresting officer and Sergeant Edward Reiman was his supervisor. Sometime after 1130 hours, Singh was on the desk and Respondent was in one of the nearby side rooms, further from the cells. The cells were not visible from the desk. Singh and the arresting officer, Gomez, observed that a prisoner, Person A, tried to hang himself in the cells using a string he found on the floor. Singh, Gomez and other officers helped cut down the prisoner.

B. The Desk Officer

Because the first four specifications allege that Respondent was assigned "as the Desk Officer," the Court first will determine whether that was his assignment. It is a less

² The administrative lieutenant, Zunno, did not testify. She was subjected to an official re-interview while the trial was well under way. It was only after Respondent's direct examination that the Advocate notified Respondent of this re-interview and expressed the desire to call Zunno as a rebuttal witness. Respondent's counsel stated that Zunno's statement in the re-interview was prejudicial in light of Respondent's direct testimony. As a sanction for the Department's late disclosure of the re-interview, and in light of the prejudice to Respondent that likely would ensue otherwise, the Court precluded the Department from calling Zunno as a rebuttal witness.

straightforward question than might appear if one is to avoid the exaltation of form over substance. As Efstratiou testified, there essentially were two desk officers. Singh was acting as the desk officer while Respondent, listed on the pre-printed roll call as the desk officer, was there to assist and provide oversight for the days-old sergeant. Respondent admitted that he was not completely absolved of responsibility for desk operations. And the Patrol Guide speaks of no position as "assistant desk officer." As such, it cannot be said, as Respondent argued, that he simply was not the desk officer and must be found Not Guilty. Cf. *Case No. 74928/99* (Feb. 17, 2000) (where accused was charged with making statement to "desk officer," but actually spoke to both desk officer and assistant desk officer, in course of asking improperly for complaint report on his own arrest possibly in order to find out complainant's name, decision referred to both inquired-of officers as "the desk officers").

That does not mean that Respondent was responsible for everything that Singh saw, heard or did. Because of the unique way that the command was operating on the day in question, Singh and Respondent had different responsibilities. Singh might be solely responsible for some actions, Respondent for others, and both of them jointly for others still. How this played out can be seen in the first two specifications.

C. Specification Nos. 1 & 2

The first specification charges that Respondent failed to ensure that Person A was monitored properly while in the holding cell. The Patrol Guide procedures cited are § 210-28 (2)-(4). These sections direct the desk officer to: (2) designate a member to inspect the cells every half hour; (2)(a) not leave prisoners unattended; (3) have the assigned member enter the results of the

inspection in the prisoner roster; and (4) have a supervisor "periodically" inspect the cells and enter the results in the roster.

Some of these directed actions were taken. Gomez was, in fact, assigned to guard Person A. Gomez pleaded Guilty to failing to do so properly but the assignment was properly given and that portion of the desk officer's responsibility was addressed.

There is evidence, however, that there was a failure of supervisory responsibility to oversee the monitoring of the prisoners. Namely, the desk officer did not have Gomez enter the results of his inspection in the prisoner roster, and a supervisor did not periodically inspect the cells. The reason for these requirements is to ensure and facilitate ultimate supervisory control of station house prisoners.

On the sole relevant page of the prisoner roster that is in evidence, page 2 of DX 1, all of the time increments for the purported inspections by the assigned members were made in Singh's handwriting. This makes it unclear whether the inspections were actually made and, in any event, it was an improper way of filling out the roster. Further, Singh himself did not inspect the cells from at earliest 1130 hours, when Person A was lodged at the station house, until approximately 1530. That does not qualify as a periodic inspection.

The remainder of the first specification charges that Respondent was responsible for maintaining the prisoner roster and making periodic supervisory inspections of the cells. The second specification alleges that Respondent "failed to ensure that the appropriate entries were made in the Prisoner Holding Pen Roster/Command Log regarding the inspection/monitoring of" Person A.

Separate from whether Singh lied on the command log about Person A merely having suicidal thoughts and not actually attempting suicide, see Specification Nos. 3-5, infra, there is

no question that Singh completely bollixed the prisoner roster and supervisory inspections. Respondent cannot divorce himself retroactively from responsibility for this. He was supposed to be guiding Singh, a sergeant for less than a week who clearly did not know what he was doing. The state of the prisoner roster demonstrates that Respondent essentially was shutting himself off from what was happening at the desk for several hours. This was unacceptable in light of Respondent's role as a guide to Singh. Therefore, Respondent is found Guilty in Part of Specification No. 1 and Guilty of Specification No. 2.

D. Specification No. 3

The third specification alleges that, after being informed by Gomez that Person A was an EDP, Respondent "failed to conduct any type of investigation to determine the prisoner's well-being or the reasons Person A was deemed an EDP."

When Person A was found hanging from the cell, various members of the command were upset. Gomez told Singh that he was not a "fuck-up" and Reiman, Gomez's supervisor, told Singh that it was imperative to remove an EDP to the hospital right away. Singh protested to Reiman that "The fucking guy could have been dead because of your guy."

Singh was, by his own admission, angry and upset because he knew that he could be demoted as a result of this incident coming less than a week into his tenure as a sergeant. He and Reiman, and allegedly Respondent as well, decided to report that Person A had suicidal thoughts or tendencies and let EMS handle him, rather than call IAB and start a painful investigation.

The allegation in the third specification is confounding for several reasons. For one, it contradicts the Department's theory of the case, in which, according to Singh, it was Respondent that came up with the suicidal thoughts phrasing.

Gomez, a Department witness, denied that Respondent had any role in the incident at all. Respondent testified, nevertheless, that Gomez told him Person A was having suicidal thoughts. Respondent asked if Person A was a “psychological problem” or “injury problem” because he needed to know the urgency of the situation.

Therefore, the specification relies entirely on Respondent’s account, because according to the Department’s witnesses, it was either Respondent’s idea to designate Person A a suicidal-ideative EDP, or Respondent had no involvement.

Yet according to Respondent, he did inquire into Person As condition and why Gomez said that he was an EDP. He wanted to know whether it was just someone ranting and raving, or if there was a medical emergency. The Court rejects the Department’s implication that it was necessary for Respondent to interview Person A and make some kind of educated-amateur diagnosis. There is no such requirement in the Patrol Guide, and in fact, the cited procedure in the specification, § 210-04 (2), relates only to the supervisor’s review of the prisoner medical treatment form.

Because Respondent did what the Department has accused him of not doing in Specification No. 3, he is found Not Guilty.

E. Specification Nos. 4 & 5

The final two specifications allege, respectively, that Respondent failed to inform the Operations Unit of Person A’s attempted suicide and impeded the investigation by denying in his first official Department interview that he was aware of the attempt.

The Department’s case for Respondent’s knowledge relies on circumstantial evidence. The Department argued that it strained credulity to believe that Respondent, as a supervisor

present on the first floor of the station house, would not have heard and learned about the commotion that arose after the attempted suicide. The Department also contended that it was Respondent's idea to deem Person A an EDP with suicidal thoughts, a decision he made without being told anything, showing that he knew the truth of the situation and that he was trying to cover it up. Finally, the Department alleged that Efstratiou caught Respondent in a lie during the first interview when Respondent stated that after being informed that Person A had suicidal thoughts, he asked about his injuries.

The extent of any commotion was equivocal, as independent Department witnesses gave opposite answers on this point. Respondent was not at the desk when Singh noticed the problem, and there is no reason to believe that he was closer to the action than Singh or had any more reason to notice it. Respondent testified that he was in rooms further away and in the opposite direction from the cells, either the small space between the desk and the 124 Room, or the 124 Room itself. The doors to these rooms might have been open but there were walls around them. What is more, the cells could not been seen from the desk; the desk officer had to use a camera to monitor them from the desk (see DX 3, station house floorplan).

No one, including Singh, testified that anyone told Respondent about the attempted suicide, striking a baneful blow at the Department's claim that he "must have known" about it. If Respondent went to the muster room on his own, that might have been a sign that he knew something occurred. But all of the witnesses said either that Gomez approached Respondent or that Reiman or Singh waved him over.

The Department asserted that by asking whether Person A was injured, Respondent signaled that he knew there was a suicide attempt. The only witness to assert that Respondent asked this

without already knowing Person A was an EDP was Singh. Singh testified that Respondent came over to the muster room and asked, "Did he hurt?"

Singh was a hesitant witness. He was unable to understand simple questions like the meaning of "firsthand knowledge," gave nonsensical responses like "Did he hurt?," and at times was barely comprehensible. In any event, Singh's claim that Respondent spontaneously asked whether Person A was injured was in direct contradiction to his official interview statement that Gomez told Respondent the prisoner was an EDP.

The evidence also contradicted Efstratiou's assertion that Respondent became "very uncomfortable" when the investigator confronted him over why he asked if Person A was injured. The interview was not admitted as direct evidence. The Department, however, apparently read from the relevant portion while impeaching Respondent on cross examination over whether he stated at the interview that he was the desk officer or assistant. As read by the Advocate from the interview transcript, Efstratiou asked, "Why would you ask them if he's injured, if all you had so far is that he's complaining that he wants to complete suicide?" Respondent answered, "Oh, because prisoners can injure themselves in any way, shape, or form. I just wanted to make sure he wasn't injured." On paper at least, or at all, as that is all we have, Respondent was not uncomfortable at all while giving this answer. At trial, he often began his answers with "Oh," and appeared, if anything, far from uncomfortable.

In any event, Respondent's reasons for asking the questions were fully in line with the Patrol Guide. § 210-04 governs the medical or psychiatric treatment of prisoners. It defines a prisoner requiring psychiatric treatment as "an emotionally disturbed prisoner, who has attempted suicide, is extremely violent or exhibits other irrational behavior" (Definition). Respondent did nothing more than try to determine the extent of Person A's EDP status.

In sum, there was no evidence other than conjecture that Respondent knew of the suicide attempt. As such, he is found Not Guilty of Specification Nos. 4 and 5.

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See Matter of Pell v. Board of Education, 34 N.Y.2d 222, 240 (1974). Respondent was appointed to the Department on June 30, 1995. Information from his personnel folder that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

Respondent has been found Guilty of accepting free and discounted merchandise from a Dunkin' Donuts location and being overly familiar with the employees there, going behind the counter, using the telephone, and kissing one of the employees, all while in uniform and on duty. Respondent also has been found Guilty of failing to ensure, on a different occasion and at a different command, that supervisory checks of a prisoner were performed and that the prisoner roster was maintained. Respondent was not the desk officer, but was on the roll call as the assistant desk officer and should have made sure that the desk officer, who had been a sergeant for less than a week, knew what he was doing.

While the Department did not mention a penalty recommendation at trial, its Disciplinary Cover Sheet indicated that the pre-trial offer was 15 suspension days to be served, 35 vacation days, and placement on one year of dismissal probation. This is more than either Singh (35 days) or Reiman (35 and a year) received, and both of them admitted involvement in the cover-up of the prisoner's attempted suicide. Respondent has been found Not Guilty of any cover-up.

Respondent nevertheless committed serious misconduct. Under the circumstances, for the totality of the misconduct, the Court recommends a penalty of the forfeiture of 30 vacation days. See Case No. 2011-5052 (Apr. 24, 2012) (20-year sergeant with no prior disciplinary history penalized 16 suspension days already served for failing to ensure that prisoner was assigned a guarding officer, resulting in prisoner's escape); *Case No. 81795/06* (Feb. 13, 2007) (19-year member with no history forfeited 12 vacation days for engaging in dispute with non-MTA bus company employee over refusal to pay fare and displaying shield in attempt to receive free ride); *Case No. 76391/00* (Apr. 2, 2001) (probationary member forfeited 30 vacation days and received 6-month extension of probationary period for using his Department identification card to obtain free movie admission on three occasions).

Respectfully submitted,


David S. Weisel
Assistant Deputy Commissioner – Trials



POLICE DEPARTMENT
CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials

To: Police Commissioner

Subject: CONFIDENTIAL MEMORANDUM
SERGEANT ERIC TURETZKY
TAX REGISTRY NO. 916825
DISCIPLINARY CASE NOS. 2009 1167 & 2010-2380

In 2010 and 2012, Respondent received an overall rating of 3.5 “Highly Competent/Competent” on his annual performance evaluation. He was rated 4.0 “Competent” in 2011. [REDACTED] [REDACTED]. Respondent has been on Level II Discipline Monitoring since September 2009. He has no prior formal disciplinary record.

For your consideration.



David S. Weisel
Assistant Deputy Commissioner

Trials